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In re Application of
Duperron
Application No. 10/718,296
Filed: November 21, 2003
Attorney Docket No. N/A
FOR: INSTANTANEOUS EVACUATION
TUBE

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: **OFFICE OF PETITIONS**
: **DECISION GRANTING**
: **PETITION**
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This is a decision on the petition filed April 12, 2004 requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed February 19, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on November 21, 2003. On February 19, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the above-identified application because the application as filed did not include a written description of the invention. In addition, the Notice required petitioner to submit the basic filing fee and a substitute specification with proper line spacing.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of November 21, 2003.

A review of the application papers filed on November 21, 2003 reveals that while a formal specification was not filed on November 21, 2003, the drawings filed on that date contain a sufficient amount of text to be considered an informal specification. Therefore, a specification was present on November 21, 2003, albeit in an unacceptable format. The claims filed on November 21, 2003 are not in proper format; nevertheless, they are claims.

Therefore, the application papers filed on November 21, 2003 contained the minimum for accordation of a filing date – a specification with a written description of the invention, at least one claim, and drawings of the invention. 37 CFR 1.53(b)

Accordingly, the request to accord the above-identified application a filing date is granted.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of November 21, 2003. The Office of Initial Patent Examination will mail a corrected filing receipt.

Petitioner should have received or will shortly receive additional correspondence, including a new Notice, from the Office of Initial Patent Examination. This correspondence will set new requirements relating to the format and content of the application and will specify a new time period in which to meet the new requirements.

Best Available Copy

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Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script, appearing to read "E. Shirene Willis".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions